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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,165	07/17/2000	Jae Beom Choi	8733.039.20	8415

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EXAMINER

CURTIS, CRAIG

ART UNIT PAPER NUMBER

2872

DATE MAILED: 04/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/618,165

Applicant(s)

CHOI et al.

Examiner

Craig Curtis

Art Unit

2872



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Feb 8, 2002

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-5, 7-15, 17-23, and 27-37 is/are pending in the application.

4a) Of the above, claim(s) 27-37 is/are withdrawn from consideration

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-5, 7-15, and 17-23 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3, 5

20) ☐ Other:

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## *DETAILED ACTION*

### *Election/Restriction*

1. Applicants' election without traverse of Group I, claims 1-5, 7-15, and 17-23 readable thereon, is hereby acknowledged. Accordingly, claims 1-5, 7-15, and 17-23 alone will be examined as to their merits; claims 27-37 are hereby withdrawn from further consideration by the examiner as being directed to non-elected inventions. Finally, it is noted that claims 6, 16, and 24-26 were canceled by previous amendment.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7-15, and 17-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanaka (5,934,780).

Tanaka discloses (see Fig. 1) the invention as claimed--a polarizer, comprising:

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a quartz substrate part comprising a plurality of quartz substrate stacked on top of one another (see Fig. 1, elements 8a; also see col. 4, lns. 28-31); and

a polarizer holder supporting the quartz substrate (see Fig. 1);

wherein the quartz substrate part has a rectangular structure (see Fig. 1);

wherein the quartz substrate has triangular structure (design choice in absence of criticality);

wherein the quartz substrate part has a parallelogram structure (when viewed from above, as in Fig. 1);

wherein the quartz substrate part comprises a plurality of quartz substrates stacked on top of one another (see Fig. 1);

wherein the polarizer includes an optically absorptive material (all matter, including quartz, exhibits finite, that is, non-zero, optical absorption);

wherein each of said plurality of quartz substrate parts is placed at a non-zero angle relative to a normal line of the surface of the polarizer holder (see Fig. 1);

wherein each of said plurality of quartz substrate parts is placed at the Brewster's angle relative to a normal line of the surface of the polarizer holder (see col. 8, lns. 56-67);

a light source for generating light (Fig. 1, 1);

means for directing light onto said quartz substrate part (see Fig. 1);

wherein said means for directing collimates said light (see Fig. 1, 7);

wherein said means for directing said light collimates said light and the quartz substrate part partially polarizes said collimated light (inherent at or near Brewster's angle).

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## *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-5, 7-15, and 17-23 are rejected under the judicially created doctrine of double patenting over claims 1-16 of U. S. Patent No. 6,292,296 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: said quartz substrate part, inter alia, disclosed in the claims of U.S. Patent No. 6,292,296 is read on by the claims of the instant application.

Furthermore, there is no apparent reason why Applicants were prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

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### *Contact Information*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig Curtis, whose telephone number is (703) 305-0776. The facsimile phone number for Art Unit 2872 is (703) 308-7721.

Any inquiry of a general nature regarding the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-0956.



**Cassandra Spyrou  
Supervisory Patent Examiner  
Technology Center 2800**



Craig H. Curtis  
Group Art Unit  
19 April 2002